

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5440**

**1. Opening of Meeting:**

The Appeals Board convened at 11:00 a.m., February 10, 2004, in Inglewood, with Chair Cynthia K. Thornton presiding.

**2. Roll Call: Members**

**Present**

**Absent**

Cynthia K. Thornton, Chair	x	
Miller Medearis, Vice Chair	x	
Jack Cox	x	
Don L. Novey	x (via phone after meeting had begun)	
Virginia Strom-Martin	x	
Steve Maviglio	x	
Ann Richardson		x (on jury duty)

**3. Approval of the Minutes:**

The minutes of the January Board meeting were approved.

**4. Chair's Report:**

Chair Cynthia Thornton reported that she and Chief ALJ/Executive Director Jay Arcellana, together with Hugh Harrison and Renee Erwin, have had several meetings with the Employment Development Department on budget matters. Budgetary matters have also been the subject of recent meetings with the Labor and Workforce Development Agency. The primary focus of these meetings has been EDD's projected \$24 million shortfall for the current fiscal year.

Chair Thornton introduced Presiding ALJ Gil Knipe, and asked that he give a report of the status of the United Food and Commercial Workers Trade Dispute. PALJ Knipe, who will be conducting the hearings in this trade dispute, has already conducted a pre-hearing in the case. The hearings will be conducted by an employer grouping, with the Von's employees scheduled for March 9, involving 350 claimants; the Albertson's employees on March 23, involving about 4,000 claimants, and the Ralph's employees on April 21, involving more than 5,000 claimants. The cases currently are being verified in Orange County and Sacramento. The employees may join the union presentation or opt out and proceed on their own. In response to inquiry from Member Strom-Martin, PALJ Knipe advised that the Northern California grocery workers' contracts do not expire until July, at which time trade dispute action could possibly move north.

## **5. Board Member Reports/Comments**

Member Maviglio reported that he has completed his training and is now carrying a full load of cases. Member Maviglio praised the Appellate Judges for the excellent training.

Member Strom-Martin reported that her one-year anniversary was on February 5. She still very much enjoys the cases and the interaction with the Board Judges.

## **6. Chief Administrative Law Judge/Executive Director's Report:**

Chief ALJ/Executive Director Arcellana thanked the Inglewood staff for their hospitality.

Chief ALJ/Executive Director Arcellana reported the Governor has created a Blue Ribbon Task Force that is charged with the task of reviewing every state function and operation with a view toward eliminating duplicative and unnecessary functions. The task force will be made up of middle managers in State Government, and is similar to a task force that the State of Texas has utilized to streamline its government operations. CUIAB already has submitted reports concerning its best practices at the request of the Labor Agency.

Chief ALJ/Executive Director Arcellana also reported that Labor Agency has approved our exemption requests for hiring, purchasing, contracting, and travel, and has passed them along to the Department of Finance for review. CUIAB hopes to weather the current budget crisis because of its federal funding source, but this may not insulate CUIAB from being required to combine some of its operations with other agencies.

## **7. Branch Reports:**

a. Chief ALJ/Executive Director Arcellana reported a Sisters City meeting yesterday with the Los Angeles, Inglewood, and Orange County Offices of Appeal. Among the items discussed were workload, budget, new hires, decision promptness standards, and quality review. Present in addition to appeal office supervisory staff were Hugh Harrison and Tim McArdle. Chief ALJ/Executive Director Arcellana then asked Hugh Harrison to give a workload report, as follows:

ALJ II Hugh Harrison reported that January saw a 14% increase in verifications from the monthly average for all of 2003. The drop off in cases predicted by EDD has not occurred, but with expiration of the TEUC program, the workload should begin to moderate, since those cases represent approximately 8-10% of our workload during the last one and a half years. Additionally, Judge Harrison expressed his belief that identity theft cases appear to have peaked. However, the new family disability benefits program comes on line in July, which is expected to result in some increased caseload. Currently, the Field still has about five weeks of un-calendared cases in the inventory, well in excess of the Field's target of two

weeks' inventory. Lastly, Judge Harrison reported the Field is making steady progress in the disability insurance workload, which had been lagging substantially.

Chief ALJ/Executive Director Arcellana reported that a one day PALJ meeting took place last week. Quality review was the primary topic of discussion. The Field still is not meeting DOL quality standards, and the CUIAB continues to operate under a corrective action plan. All of the Field's procedures are being reviewed. One of the suspected causes for the recurring low scores is insufficient time being allocated for hearings. Accordingly, consideration is being given to adoption of a 45 minute minimum hearing-length standard. These and other issues will be addressed in the coming weeks in further meetings with the PALJs.

b. Deputy Chief ALJ Julie Krebs, Appellate Operations, reported they registered 1,496 cases in January, and disposed of 1,193 cases. January is typically a light workload month for Appellate. Appellate is loaning one judge to the Sacramento Office of Appeals and providing coverage as needed. ALJ loans and vacations contributed to the workload decline in January. With the advent of the new case aging pilot project, Appellate is now operating on a first in, first out basis. Still, Appellate made time lapse at the 150-day measure in January.

Deputy Chief Krebs also discussed the inadvertent disclosure of Social Security account numbers in the TWA/American Airlines multi cases. When EDD filed the appeals, it did so listing several claimants in each letter of appeal. Appellate sent out the acknowledgement letters with a copy of EDD's appeal letters, as per standard practice and pursuant to our regulations, but failed to take steps to redact the names and SSNs of the other claimants listed. The parties have been notified of the disclosure, and they have been provided telephone numbers and other information related to identity security.

c. Deputy Director Pam Boston reported CUIAB was not impacted by the recent worm that struck several systems throughout the state, due to the security protections we have put in place. Deputy Director Pam Boston also reported that the Administration Branch has completed the SSM I and II examinations, with the results to be out soon. A recent procurement audit went well and we are expecting a favorable report. Finally, the Administration Branch is assisting Northern California RSU with registering the grocery trade dispute cases.

d. Chief ALJ/Executive Director Arcellana reported for Planning and Program Management Branch Deputy Director Mary Walton-Simons. Martha Silva was called to meet today with other Agency departments concerning CUIAB's Bilingual Services Program, likely a precursor to the consolidation of state functions. CUIAB has been a leader in this area, and its program is seen as an example of "best practices" in the Agency. Chief ALJ/Executive Director Arcellana also reported that P&PM and Administration have registered approximately 4,000 of the grocery trade dispute cases. Martha Diaz headed this effort, and did an excellent job. CUIAB is making every effort to make sure the hearings in those cases are held timely.

## **8. Chief Counsel's Report:**

Chief Counsel Ralph Hilton gave his litigation report. Four new cases were filed last month and two were closed. One of the closed cases was a win and the other was a remand. Chief Counsel Hilton also reported that he attended a statewide meeting of Chief Counsels. This was a meet-and-greet type of meeting called by the Governor's Office, and it was good to see some of the new players. Chief Counsel Ralph Hilton noted that all the top attorneys in the new administration are from the Attorney General's Office.

## **9. New Business**

Presiding Judge Hugh Harrison gave a report on the Department of Labor's Case Aging Pilot Project. He noted that federal time lapse standards resulted from a U.S. Supreme Court interpretation of the Social Security Act's "when due" clause in the *Java* case. States' efforts to meet the 30- and 45-day standards have led to some practices that are adverse to achieving the best decisions possible in an acceptable time frame. For example, sometimes older cases are ignored in preference of younger case still within the 30- and 45-day time lapse period. Also, many decisions are issued without a review by the judge who heard the case.

The object of the pilot is to change the appeals promptness standard to one that will be more accurate and encourage cases to be decided on a first in, first out basis. Under the new standards, the average age of all open cases in the inventory is determined on a monthly basis. All cases, including those not yet verified, will be counted in this measurement. In this regard, EDD will continue to comply with its commitment to electronically process all appeals within 24 hours of receipt. The federal Department of Labor is not expecting most cases to be decided within 30 days.

California is one of six states participating in the project; two large states, two medium-sized states, and two small states. The other states are Georgia, Ohio, Virginia, Vermont, and Wyoming. Georgia is considered the other "large" state, although California hears in two months' time more cases than Georgia hears in one year. The pilot will be run through October 1, 2004. It is anticipated that all states will participate in the project for another year before the federal regulations are actually changed. Meanwhile, CUIAB will not be held accountable for making time lapse, although time lapse is still reported. In December, the average age of all cases in the Field was 42 days, 50 days in Appellate.

The project should be very beneficial for California. It will enable CUIAB to register, hear, and type cases on a more equitable first-in, first-out basis. Calendaring will be much simpler, with no jockeying to set cases up against a time lapse date. There will no longer be the pressure, on both the judges and support staff, to get cases out on Fridays to beat a time lapse that occurs that day or on the weekend. It will also enable us to include our unverified cases in the count.

Chief Arcellana commended the staff for the rapport they enjoy with the Department of Labor staff. He noted the pilot is an agency-wide project, involving all four of CUIAB's branches.

**10. Public Comment:**

There was no public comment offered.

**11. Closed Session:**

The regularly scheduled Board meeting adjourned, and the Board entered into closed session. No votes were taken on any matters in closed session.